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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4954/2015 & CM APPL. 8952/2015

R.K. SRIVASTAVA

..... Petitioner

Through: Mr. Anuj Aggarwal and Mr. Sourabh Ahuja, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Vikas Mahajan, CGSC with Mr. Aakash Varma, Advocate for R-1. Mr. Mohit Agarwal, Advocate for R-5

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **05.02.2019**

The petitioner has preferred the present writ petition to assail the order dated 09.02.2015 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal').

The petitioner had preferred the said Original Application to assail the charge-sheet dated 23.07.2010 issued to him, and the consequential orders appointing the Enquiry Officer and the Presenting Officer. The primary allegation against the petitioner was that while he was serving as the Registrar of Co-operative Societies, in connivance with his subordinates and others, he ordered the revival of a Co-operative Society which had been ordered to be wound up. The alleged misconduct took place in the year 2000. One of the primary grounds raised by the petitioner was that there

was delay in the issuance of the charge-sheet which has prejudiced him. From the impugned order, it appears that the Tribunal passed an order on 20.12.2013 requiring the respondents to, *inter alia*, deal with the aspect of delay. From the order of the Tribunal it appears that the respondents filed an affidavit wherein it was *inter alia* stated that no benefits were granted to the Society, nor any loss was caused to the Government on account of the alleged misconduct of the petitioner. On the aspect of delay, the Tribunal has held that the delay was not ten years, as contended by the petitioner, but was about four years considering the fact that the alleged misconduct was unearthed by the CBI and the respondent had become aware of the same on the basis of the report of the CBI in the year 2007.

During the pendency of the writ petition we are informed that the petitioner has superannuated on 13.01.2016, and the petitioner has been paid all his retiral dues. Thus, even if the writ petition were to be rejected and the enquiry proceedings were permitted to be undertaken, the same would have to be conducted in terms of Rule 9 of the CCS (Pension) Rules. Under the said Rule, the limited penalty that the petitioner could be subjected to, even if found guilty, would be **withholding of the pension or gratuity, or both, either in full or in part, or withdrawing of pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement.**

Thus, in respect of the superannuated employee, the punishments

which could be imposed are only of a pecuniary nature and the same can be imposed only if the established misconduct also establishes the pecuniary loss caused to the Government. From the impugned order as well as the charge-sheet, it appears that there is no allegation against the petitioner of his causing any loss to the Government on account of his alleged misconduct. In these circumstances, it is a moot question as to what would be the purpose of permitting the respondent to continue with the enquiry at this stage. Counsel for the respondent wishes to take instructions in this regard.

List on 15.02.2019.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 05, 2019

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